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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,840	03/26/2004	Blayn W. Beenau	54022.4600	2839
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Snell & Wilmer L.L.P., (Barker) One Arizona Center 400 East Van Buren Street Phoenix, AZ 85004-2202			EXAMINER QAYYUM, ZESHAN	
			ART UNIT 3685	PAPER NUMBER
			NOTIFICATION DATE 09/15/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/708,840	<b>Applicant(s)</b> BEENAU ET AL.	
	<b>Examiner</b> ZESHAN QAYYUM	<b>Art Unit</b> 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 29-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 29-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/01/2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. Claims 1, 29-51 have been examined.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim have been considered but are moot in view of the new ground(s) of rejection.
3. With respect to Applicant arguments with respect to Official Notice have been consider but they are not persuasive.
4. Applicant attempt at traversing the Official Notice findings as stated in the previous office Action is inadequate. Adequate traversal is a two step process. First, Applicant must state their traversal on the record. Second and in accordance with 37 C.F.R 1.111(b) which requires Applicant to specifically point out the supposed error in the Office Action, Applicant must state why the Official Notice statement are not to be considered common knowledge or well known in the art.
5. In this application, while Applicant have clearly met step (1), Applicant have failed step (2) since they have failed to argue why the Official Notice statement is not to be considered common knowledge or well known in the art. Because Applicant traversal is inadequate, the Official Notice statement is taken to be admitted as prior art. (See MPEP 2144.03).
6. In addition Examiner notes that the following reference clearly show using RF device are old and well known in the art to perform transaction. McKeen (US

6529880), Johnson, Jr. (US 6470233), Brady (US 6201474), Nicholson (US 6332128).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 7. Claims 1, 29-30, 39, and 41-50 rejected under 35 U.S.C. 103(a) as being unpatentable over Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410).**
8. With respect to claims 1, 29-30 and 48-50, Zacharias discloses: associating different codes (i.e. index numbers) to a card (i.e. supracard) associating, in the database, the first code with a first account having a first account value that is accessible via the card; associating, in the database, the second code with a second account having a second account value that is accessible via the card (See Fig 1 part record A) receiving a transaction request associated with the card, wherein the transaction request comprises a transaction value and transaction code (See column 5, lines 49-67, column 6, lines 1-10, column 7, lines 65-67 and column 8, lines 1-7) comparing the transaction code to the first code and the second code to determine whether to assess the transaction value against the first account or the second account; assessing the transaction value

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against the first account value in response to the transaction code being associated with the first code (See column 5, lines 49-67, column 6, lines 1-10 and column 7, lines 15-33). Zacharias discloses transaction done by using different codes. Zacharias does not explicitly disclose the use of biometric samples instead of codes. Pare discloses transaction done by biometrics samples (See Abstract, column 4, lines 14-67 and column 26, lines 45-51). Therefore, it would have been obvious to modify Zacharias codes with Pare's biometric samples in order to provide extra security. Zacharias in view of Pare does not explicitly disclose: biometrics data detected by a portable device censer to create biometric sample data. Hsu discloses: biometrics data detected by a portable device censer to create biometric sample data (See abstract, Column 5-65) Therefore, it would have been obvious to modify Zacharias in view of Pare in further view of Hsu in order to provide extra security. Zacharias discloses transaction done by card. Zacharias in view of Pare and in further view of Hsu does not explicitly disclose use an RF device instead of a card. The Examiner is taking Official Notice that using RF device is old and well known in the art to perform transaction. Therefore, it would have been obvious to substitute RF device for the card to obtain predictable result. (Ex parte Smith, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)).

9. With respect to claims 39 and 41-43 Zacharias in view of Pare and in further view of Hsu discloses all the limitations as described above. With respect to wherein

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the second set of account rules is applied to the transaction request in response to the transaction biometric sample data being associated with the second biometric sample data; wherein the first biometric sample data is associated with a first fingerprint of a first digit, and wherein the second biometric sample data is associated with a second fingerprint of a second digit; wherein the first account is a primary account associated with the first biometric sample data, and wherein the third account is a secondary account associated with the first biometric sample data; wherein the second account is a primary account associated with the second biometric sample data, and wherein the fourth account is a secondary account associated with the second biometric sample data; these are nonfunctional descriptive material because they just describing the data stored in the memory. Therefore, it has been held nonfunctional descriptive material will not distinguish the invention from prior art in term of patentability (In re Gulack, 217 USPQ 401 (Fed. Cir. 1983), In re Ngai, 70 USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II).

10. With respect to claim 44 Zacharias in view of Pare and in further view of Hsu discloses all the limitations as described above. Zacharias further discloses: wherein the first account, the second account, the third account and the fourth account individually comprise at least one of a credit account, a debit account, a prepaid account, a loyalty account, a rewards account, or an airline miles account (See Fig 1 part record A and column 7 lines 15-32).

11. With respect to claim 45 Zacharias in view of Pare and in further view of Hsu discloses all the limitations as described above. Zacharias further discloses: wherein the database is associated with at least one of an issuer or an authorized sample receiver (See abstract, column 3, lines 10-25, column 5, lines 4-20 and column 7, lines 1-33).
12. With respect to claims 46-47, Zacharias in view of Pare and in further view of Hsu discloses all the limitations as described above. Pare further discloses: wherein the biometric sensor comprises at least one of a retinal scan sensor, an iris scan sensor, a fingerprint sensor, a hand print sensor, a hand geometry sensor, a voice print sensor, a vascular sensor, a facial sensor, an ear sensor, a signature sensor, a keystroke sensor, an olfactory sensor, an auditory emissions sensor, or a DNA sensor; wherein the first biometric sample and the second biometric sample individually comprise a biometric sample characteristic comprising at least one of blood flow, correctly aligned ridges, pressure, motion, body heat, ridge endings, bifurcation, lakes, enclosures, short ridges, dots, spurs, crossovers, pore size, pore location, loops, whorls, or arches (See column 10, lines 44-67, column 11, lines 1-67, column 12, lines 1-67, column 13, lines 1-67 and column 14, lines 1-67).

**13. Claims 31 rejected under 35 U.S.C. 103(a) as being unpatentable over Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410) and Marittzen (US 20020073042).**

14. With respect to claim 31, Zacharias in view of Pare and in further view of Hsu discloses all the limitations as described above. Zacharias in view of Pare in further view of Hsu discloses does not explicitly disclose: associating the first biometric sample data with a third account having a third account value. Marittzen discloses associating biometrics with the multiple accounts (See paragraph 00033 and 0038). Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was made to modify combination of Zacharias, Pare and Hsu references with Marittzen in order for user to remember PIN easily.

**15. Claims 32- 34, 37-38 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410), Marittzen (US 20020073042) and Walker (US 20050027650).**

16. With respect to claim 32-34, 37-38 and 40, Zacharias in view of Pare and in further view of Hsu and Marittzen discloses all the limitations as described above. Zacharias in view of Pare and in further view of Hsu and Marittzen does not explicitly disclose: assessing the transaction value against the third account value in response to the transaction value being greater that the first account



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value; associating the first biometric sample data with a first set of account rules and assessing the transaction value against at least one of the first account value or the third account value in accordance with the first set of account rules. Walker discloses: assessing the transaction value against the third account value in response to the transaction value being greater than the first account value; assessing the transaction value against at least one of the first account value or the third account value in accordance with the first set of account rules (See paragraph 0005 and 0006). Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was to modify the combination of Zacharias, Pare, Hsu and Marittzen references with Walker in order to provide overdraft protection.

**17. Claims 35 rejected under 35 U.S.C. 103(a) as being unpatentable over**

**Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410) and Siegel (US 7289970).**

**18. With respect to claim 35, Zacharias in view of Pare in further view of Hsu**

discloses all the limitations as described above. Zacharias in view of Pare and in further view of Hsu does not explicitly disclose: assessing the transaction value against the first account value in response to the transaction request qualifying for loyalty points and in response to the transaction value being less than a maximum value. Siegel discloses: assessing the transaction value against the first account value in response to the transaction request qualifying for loyalty

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points and in response to the transaction value being less than a maximum value (See column 6, lines 25-59 and column 8, lines 1-11). Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was made to modify Zacharias in view of Pare in further view of Hsu reference with Siegel in order to provide incentive to users.

**19. Claims 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410), Marittzen (US 20020073042) and Siegel (US 7289970).**

20. With respect to claim 36, Zacharias in view of Pare and in further view of Hsu and Marittzen discloses all the limitations as described above. Zacharias in view of Pare and in further view of Marittzen does not explicitly disclose: assessing the transaction value against the third account value in response to the transaction request not qualifying for airline miles and in response to the transaction value being greater than a minimum value. Siegel discloses: assessing the transaction value against the third account value in response to the transaction request not qualifying for airline miles and in response to the transaction value being greater than a minimum value. (See column 6, lines 25-59, and column 8, lines 1-11). Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was made to modify Zacharias in view of Pare and further view of Hsu Marittzen reference with Siegel in order to provide incentive to users.

**21. Claim 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Zacharias (US 6494367) in view of Pare (US 5870723) in further view of Hsu (US 6041410), Marittzen (US 20020073042) and Walker (US 20050027650).**

22. With respect to claim 51, Zacharias discloses: associating different codes (i.e. index numbers) to a card (i.e. supracard) associating, in the database, the first code with a first account having a first account value that is accessible via the card; associating, in the database, the second code with a second account having a second account value that is accessible via the card (See Fig 1 part record A) receiving a transaction request associated with the card, wherein the transaction request comprises a transaction value and transaction code (See column 5, lines 49-67, column 6, lines 1-10, column 7, lines 65-67 and column 8, lines 1-7) comparing the transaction code to the first code and the second code to determine whether to assess the transaction value against the first account or the second account; assessing the transaction value against the first account value in response to the transaction code being associated with the first code (See column 5, lines 49-67, column 6, lines 1-10 and column 7, lines 15-33). Zacharias discloses transaction done by using different codes. Zacharias does not explicitly disclose the use of biometric samples instead of codes. Pare discloses transaction done by biometrics samples (See Abstract, column 4, lines 14-67 and column 26, lines 45-51). Therefore, it would have been obvious to modify Zacharias codes with Pare's biometric samples in order to provide extra security. Zacharias in view of Pare does not explicitly disclose: biometrics data

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detected by a portable device censer to create biometric sample data. Hsu discloses: biometrics data detected by a portable device censer to create biometric sample data (See abstract, Column 5-65) Therefore, it would have been obvious to modify Zacharias in view of Pare in further view of Hsu in order to provide extra security. Zacharias discloses transaction done by card.

Zacharias in view of Pare and in further view of Hsu does not explicitly disclose use an RF device instead of a card. The Examiner is taking Official Notice that using RF device are old and well known in the art to perform transaction.

Therefore, it would have been obvious to substitute RF device for the card to obtain predictable result. (Ex parte Smith, 83 USPQ2d 1509 (Bd. Pat. App. & Int. 2007)).

Zacharias in view of Pare and in further view of Hsu does not explicitly disclose: associating the first biometric sample data with a third account having a third account value. Marittzen discloses associating biometrics with the multiple accounts (See paragraph 00033 and 0038). Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was made to modify Zacharias in view of Pare and in further view of Hsu reference with Marittzen in order for user to remember PIN easily.

Zacharias in view of Pare and in further view of Hsu and Marittzen does not explicitly disclose: associating the first biometric sample data with a first set of account rules and assessing the transaction value against at least one of the first account value or the third account value in accordance with the first set of

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account rules; assessing the transaction value against the first account value in response to a first account condition being met; and assessing the transaction value against the third account value in response to a third account condition being met, wherein the first set of account rules includes the first account condition and the third account condition. Walker discloses: associating first account with a first set of account rules and assessing the transaction value against at least one of the first account value or the third account value in accordance with the first set of account rules; assessing the transaction value against the first account value in response to a first account condition being met; and assessing the transaction value against the third account value in response to a third account condition being met, wherein the first set of account rules includes the first account condition and the third account condition (See paragraph 0005 and 00006) Therefore, it would have been obvious to one of the ordinary skill in the art at the time invention was to modify the combination of Zacharias, Pare, Hsu and Marittzen references with Walker in order to provide overdraft protection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Nicholson (US 6332128) discloses system and method of providing multiple level discounts on cross marketed products.

- Seder (US 7191156) discloses: digital watermarking system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZESHAN QAYYUM whose telephone number is (571)270-3323. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin L. Hewitt can be reached on (571)272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Z. Q./

Examiner, Art Unit 3685

/Calvin L Hewitt II/

Supervisory Patent Examiner, Art Unit 3685